IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Bail Appl..No. 3863 of 2007()

BA.385/2007 of J.M.F.C.,SULTHANBATHERY
CR.NO.31/07 OF SULTHANBATHERY EXCISE RANGE

.....

PETITIONER/ACCUSED NO.1

SIHABUDEEN, S/O UNNIMOIDEEN,
PATHOOTHARA HOUSE, CHETTIYARAMMAL,
WANDOOR P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: COMPLAINANT/STATE

---

1. STATE OF KERALA REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. EXCISE INSPECTOR,
SULTAN BATHERY EXCISE RANGE.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3863 of 2007

Dated this the 27th day of June 2007

O R D E R

Application for regular bail. The petitioner is the first accused. He, along with the second accused, was allegedly involved in an attempt to transport 416 litres of spirit in a vehicle driven by him which had a special contrivance to stock spirit in it. The petitioner was arrested on 31/5/2007 and continues in custody from that date. The co-accused had allegedly run away when the vehicle was intercepted and he has not been arrested so far.

2. The learned counsel for the petitioner submits that the petitioner is innocent and prays that the petitioner may now be enlarged on bail. The learned Public Prosecutor opposes the application. Considering the quantity and nature of the contraband article seized appropriate inference about the magnitude of the operation must be drawn. The petitioner is not entitled for release on bail at this stage, submits the learned Public Prosecutor. In a case like this, the prosecution may be given reasonable further time to complete the investigation

before the question of release of the accused on bail is considered, submits the learned Public Prosecutor.

3. I find merit in the opposition by the learned Public Prosecutor. In the wake of the opposition by the learned Public Prosecutor, regular bail can be granted to the petitioner only if this court is in a position to entertain the twin satisfactions contemplated under Section 41A of the Kerala Abkari Act. I do not find any circumstances which can persuade this court to entertain either of those two satisfactions in the facts and circumstances of this case. I am satisfied that this petition deserves to be dismissed now.

4. In the result, this petition is dismissed. I may hasten to observe that the petitioner shall be at liberty to move this court or the learned Sessions Judge for bail again at later stage of the investigation, not at any rate, prior to 11/7/2007. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007